

## REMARKS

Applicant is in receipt of the Office Action mailed June 3, 2003.

### Information Disclosure Statement

The Office Action states that the Information Disclosure Statement filed March 29, 2001, fails to comply with the rules because the references cited therein do not constitute prior art. In that Office Action, Applicant had submitted related applications for possible double patenting rejections. Applicant notes that a non-statutory double patenting rejection has in fact been made with respect to one of these applications. Thus, Applicant presumes that these related patent applications have been considered with respect to double patenting.

### Double Patenting Rejection

Claim 1 was provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claim 1 of co-pending application Serial No. 09/737,527 and also over Mastering Microsoft Office 97. Applicant respectfully submits that claim 1 of the present application as amended, is patentably distinct over the claims in 09/737,527. In particular, present claim 43 recites that the user provides input specifying a data source, and then the method programmatically determines an appropriate GUI element for use with this data source based on a data type of data provided by the specified data source. Applicant submits that this programmatic determination of the appropriate GUI element based on the data source or data target is a novel and non-obvious feature that is not claimed in co-pending application Serial No. 09/737,527.

### Section 103 Rejections

Various of the claims were rejected under §103(a) as being unpatentable over U.S. Patent No. 5,339,392 to Risberg et al. and also over Mastering Microsoft Office 97 by Moseley and Goodi. Applicant has cancelled the present claims and submits new

claims 43 – 60 to clarify the subject matter being claimed. New claim 43 recites as follows:

43. (New) A memory medium comprising program instructions for configuring a graphical user interface (GUI) element to subscribe to data source, wherein the program instructions are executable to implement:

receiving user input specifying a data source, wherein the user input is received to a program development environment during creation of a program;

programmatically selecting a GUI element after receiving the user input, wherein the GUI element is selected based on a data type of the data source;

displaying the selected GUI element in the program after said programmatically selecting; and

programmatically configuring the GUI element to receive and display data from the specified data source.

New claim 43 recites that user input is received specifying a data source. This input is received to a program development environment during creation of a program. This is not taught or suggested in the Office 97 reference.

The claim then recites programmatically selecting a GUI element, wherein the GUI element is selected based on a data type of data provided by the data source. Applicant submits that neither of the cited references teach or suggest programmatically selecting a GUI element based on a data type of data provided by the data source. The Office 97 reference involves pasting a Microsoft Excel Worksheet object, which specifies an application type. Although unclear from the Office 97 reference, Applicant presumes that the knowledge that the link is made to a Microsoft Excel Worksheet object is used to display the data in a table in the Word document in Figure 3.9. The Office 97 reference thus does not teach or suggest programmatically selecting a GUI element based on a data type of data provided by the data source. The Risberg patent also does not teach or suggest this limitation. Thus the proposed combination of Risberg and Office 97 does not teach or suggest the present claims.

To establish a *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. Obviousness cannot be established by combining or modifying the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion or incentive to do so. *In re Bond*, 910 F. 2d 81, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolochem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis.

In addition, the showing of a suggestion, teaching, or motivation to combine prior teachings “must be clear and particular . . . . Broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence’.” *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The art must fairly teach or suggest to one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination.

Applicant submits that it would not have been obvious to combine the Risberg and Office 97 references as proposed by the Examiner. The Risberg patent relates to a development environment for creating a type of user interface program, whereas the Office 97 reference relates to linking different business software applications together. There is absolutely no suggestion in the references to combine the references as proposed by the Examiner.

## CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-50800/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Request for Approval of Drawing Changes
- ☐ Notice of Change of Address
- ☐ Check in the amount of \$            for fees (        ).
- ☐ Other:

Respectfully submitted,



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